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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/787,011  | 02/25/2004  | Marilou Owens        | OWENS ET AL. (CIP)  | 3963             |
| 25889   | 7590        | 06/28/2004           | EXAMINER            |                  |
| WILLIAM COLLARD<br>COLLARD & ROE, P.C.<br>1077 NORTHERN BOULEVARD<br>ROSLYN, NY 11576 |             |                      |                     | SANTOS, ROBERT G |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |
|   |             |                      |                     | 3673             |

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                  |              |
|------------------------------|------------------|--------------|
| <b>Office Action Summary</b> | Application No.  | Applicant(s) |
|                              | 10/787,011       | OWENS ET AL. |
|                              | Examiner         | Art Unit     |
|                              | Robert G. Santos | 3673         |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 February 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5, 7 and 8 is/are rejected.
- 7) Claim(s) 6 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02252004.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Objections***

1. Claim 6 is objected to because of the following informalities: In line 2: The term --type-- should be inserted after the term "loop". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 7, and 8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Simon '828 (note especially Figures 1-4; column 3, lines 28-34; column 4, lines 36-37; and column 5, lines 20-38).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simon '828 in view of Moran et al. '474. Simon '828 does not specifically disclose a condition wherein the

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strap (34) is made of a breathable mesh fabric. Moran et al. '474 provide the basic teaching of a support device (10) including a restraint strap (72) formed from "open mesh or net material." The skilled artisan would have found it obvious at the time the invention was made to provide the support pillow of Simon '828 with a strap made of a breathable mesh fabric "in order to firmly secure [an infant] in a gentle manner with respect to [the support pillow]", thereby ensuring enhanced user comfort and support (see Moran et al. '474, column 7, lines 19-24).

6. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simon '828 in view of Clark '999. Simon '828 does not specifically disclose conditions wherein the two ends of the base (18, 20) are attachable to each other via a buckle and wherein the top surface of the base is slanted. Clark '999 provides the basic teaching of a U-shaped support pillow (10) provided with a buckle assembly (18, 20, 22, 24) for attaching the two ends (52, 52A) thereof and having a slanted top surface (see Figures 4-6; column 2, lines 61-67; column 3, lines 1-8 & 63-67; column 5, lines 14-17; column 7, lines 41-65; and column 9, lines 19-21). The skilled artisan would have found it obvious at the time the invention was made to provide the support pillow of Simon '828 with a buckle for attaching the two ends of the base in order to provide a simple means for securing the support pillow to a user as desired; the skilled artisan would have found it obvious at the time the invention was made to provide the support pillow of Simon '828 with a slanted top surface in order to impart a simple safety feature to the support pillow which "helps keep babies [placed on the top surface] rolled toward [the user]" (see Clark '999, column 2, lines 63-66).

***Allowable Subject Matter***

7. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The examiner respectfully asserts that one of ordinary skill in the art would not have found it obvious to modify the support pillow of Simon '828 to include the particular fastener assembly configuration as specifically recited in claim 6.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Owens et al. '770 and Van Vuuren '408.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Tu-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert G. Santos  
Primary Examiner  
Art Unit 3673

R.S.  
June 17, 2004